IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10787 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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KANTILAL MANILAL KAPASI

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

1. Special Civil Application No. 10787 of 2000

MR JS YADAV for Petitioner No. 1

Mr. DEEPAK DAVE for MR AD OZA for Respondent No. 1-2

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 26/09/2001

ORAL JUDGEMENT

With the consent of both sides, the matter is taken up for final hearing today.

The petitioner challenges the order of the

Appellate Committee dated 26th May, 2000 in its Appeal no.3/20 by which it was held that from the inspection report of the laboratory it was clear that the appellant had tampered with the meter as found during laboratory inspection and committed theft of electrical energy. The copy of the laboratory report is on record at Annexure "F" to the petition. The said report dated 25-11-1999 is referred to in the very first paragraph of the order of the appellate authority. In the report at Annexure "F", it is recorded that there was no tampering noticed in the meter in question and that its wiring was in order. It is evident from the appellate order that the report at Annexure "F" had not been taken into account by the Appellate Committee. It is not explained as to on what basis, the observation that from the inspection report it was clear that the appellant had tampered with the meter was made by the Appellate Committee. Since the material in the nature of joint report dated 25-11-1999, copy of which is at Annexure "F" to the petition has not been considered by the Appellate Committee, the impugned order cannot be sustained and is hereby set aside with a direction to the Appellate Committee to reconsider the matter in the light of all the relevant material including the joint inspection report at Annexure "F" to the petition after hearing the petitioner. Rule is made absolute accordingly with no order as to costs.

(R.K.Abichandani,J.)

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